THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17859 of 1998

Dated : 21.06.2007

Between:

G.Srinivas S/o Ramachandar Rao

…**PETITIONER**

And:

The Chairman and Managing Director,
The Singareni Colleries Company Limited,
Kothagudem and another.

… RESPONDENT

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.17859 of 1998

ORDER:

This writ petition is filed for a Writ of Mandamus to declare the action of the respondent in not regularizing the services of the petitioner as Muccaddam, while absorbing the petitioner' juniors as Muccaddams as illegal, irregular and arbitrar, being violative of Articles 14, 16 and 21 of the Constitution of India and for a consequential direction to pass orders similar to the one passed in W.A.No.912 of 1994, dated 04.07.1995.

In the affidavit filed in support of the writ petition, petitioner averred that he worked as Muccaddam under the control of the respondent and nearly 40 Hamalies were placed under his control. He further averred that though he worked as Muccaddam for a period of five years before 12.03.1990, the date on which the respondent entered into an agreement with the major unions under which the contract labour/casual labour, who have put in one year of service, shall be considered for absorption against regular posts of General

Mazdoors, etc. It is also averred that in pursuance of the said settlement, the management conducted interviews in respect of certain persons and the services of some of the Mazdoors were regularized at loading and unloading and the services of the petitioner were not regularised. It is also stated that six persons named at paragraph 7 of the affidavit, who were appointed subsequent to the appointment of the petitioner, were absorbed as Muccaddams and therefore, the action of the respondent in not regularizing the services of the petitioner is illegal and discriminatory.

A counter-affidavit has been filed on behalf of the respondent, in which he has denied the very claim of the petitioner that he had ever worked in the respondent's Company. It is also stated in the counter-affidavit that in pursuance of G.O.Ms.No.29 dated 14.02.1990, the respondent-company entered into a settlement with major unions on 12.03.1990 and that item No.4 of the settlement reads as follows.

> "In pursuance to Government of A.P. Order No.G.O.Ms.No.29, dated 14.02.1990, the Management agrees to consider absorption of Contract Labour engaged in permanent and perennial nature of jobs and identification of workers working in various Departments, vacancies and modalities will be worked but by a Committee consisting of representatives of Management and all the five Unions keeping in view the earlier settlements. This exercise will be completed before 1st May, 1990."

It is further averred that in order to implement the Memo of Settlement, a committee was constituted and it has framed its own guidelines for implementing the settlement. The committee has considered the claims of nearly 1,800 contract labour and after completing the process of regularization, the respondent-company requested the Government to repeal G.O.Ms.No.29 dated 14.02.1990 and accordingly, the Government accepted its request, vide a memo dated 03.04.1995. With reference to absorption of the juniors of the petitioner, it is stated that since they regularly worked as contract labour, their services were absorbed, while the petitioner has never worked in the respondent-

Company.

Heard the learned counsel for the petitioner and Ms.V.Uma Devi, learned counsel for the respondent.

At the outset, it is required to be pointed out that the petitioner failed to make Singareni Collieries Company Limited a party and instead, he chose to implead the Chairman and Managing Director as representing the Company. Ordinarily, this writ petition should have been dismissed only on this ground. However, from the averments contained in the respective pleadings, it is clear that the scheme, which was introduced in the year 1990, had worked itself out with identification of as many as 1,800 contract labour and by the time the present writ petition is filed, the said scheme ceased to operate. Though a specific plea is raised in the counter-affidavit that the petitioner never worked, the petitioner neither filed any rejoinder nor produced any material to controvert the said allegation. Moreover, if the petitioner had really worked and his claim was unjustly rejected, there was no reason for him to have waited for almost eight years before approaching this Court by way of the present writ petition. The order in W.A.No.912 of 1994 does not help the petitioner, because the appellants therein have approached this Court immediately after rejection of their claims and in those circumstances, the Division Bench of this Court gave a direction to consider their cases afresh. As the petitioner slept over his rights for nearly eight years and in the absence of any *prima facie* material to show that he worked in the respondent-company, he is not entitled to the directions as were given in W.A.No.912 of 1994 dated 04.07.1995. I am of the considered opinion that the petitioner made a speculative claim in order to gain employment.

For the aforementioned reasons, the writ petition is devoid of any merit and is accordingly dismissed. There shall be no order as to

costs.

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21.06.2007

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